THE HON'BLE MR JUSTICE K.C. BHANU

On Tuesday, the twentieth day of September

Two thousand and five..

W.P. NO.11067 of 2005

Bangaru Pullanna.

…….Petitioner.

And

The Assistant Commissioner of Endowments,

Kurnool, Kurnool Dist, and others..

……Respondents.

O R D E R:

This writ petition is filed, seeking declaration that the notice issued by the 2nd respondent in Form-I bearing R.C.No.217/Ls/2004 dated 25.2.2005, is arbitrary and illegal.

The brief facts which are relevant here are that the petitioner is cultivating the lands admeasuring Ac.25.57 cents in Sy.No.5 situated at Attibelagal village, Alooru Mandal, since 1964 and that except the said land, he has no other land. While so, the 2nd respondent issued notice in Form-1 dated 25.2.2005, treating him as encroacher and asking him to vacate the land as the lease granted to the petitioner was cancelled under Section 82(1) of the Endowments Act (for short 'the Act') and further in the year, 2001 the Supreme Court upheld Section 82 of the Act. Further, the 2nd respondent issued auction notice that the auction

to be held on 21.4.2005, is liable to be set aside so also declaring the notice dated 25.2.2005, as illegal.

Inter alia, the second respondent filed counter affidavit denying the allegations made in the affidavit filed by the writ petitioner and further contending that the receipts filed by the petitioner will prove the falsity of the petitioner in paying the 'maktha' regularly. Further, the petitioner is well aware of the auction that would be conducted on 21.4.2005 as the auction notice was notified in the public by beat of 'tom-tom'. The petitioner is a defaulter in payment of the rent to the Government and so he is not entitled to claim any relief prayed in the writ petition. Hence prayed to dismiss the writ petition.

The learned counsel for the petitioner contended that without any publicity and without giving notice to the petitioner, the auction was held on 21.4.2005, with a view to help the 3rd respondent and therefore, he prays to set aside the same.

The learned standing counsel appearing for the 2nd respondent contended that the petitioner has not been followed the procedure, strictly, and violated the procedure laid down in the Act, and notice sent to the others including the petitioner and also notified the public auction in the village by beat of tom-tom. Therefore, there are no grounds to interfere with the action of the respondents.

The present writ petition is filed for grant of writ of mandamus declaring the notice issued by the 2nd respondent in Form No.1 dated 25.2.2005 under challenge, as illegal. The only ground contended by the learned counsel for the petitioner that no wide publicity was given and that no notice was given to the petitioner. The said allegation is specifically denied by the respondents and contended that the respondents have strictly followed the procedure and was issued notice to all the lessees including the petitioner. It is also specifically stated that the auction was notified in the village by beat of tom-tom. The lease is in respect of an extent of Ac.25.57 cents, prior to 2004 was Rs.616 per annum in total. Now the amount fetched Rs.9,400/- on 21.4.2005, when the auction was conducted. Since the allegations in the affidavit are specifically denied and considering the amount fetched in the lease when wide publicity

was given. Since the publicity was given in the village by beat of tom-tom and the auction was conducted on the notified date, it cannot be said that the action of the respondents is *malafide* and therefore, it is not liable to set aside.

Therefore, the writ petition is devoid of merits and is dismissed. No order as to costs.

Justice K.C.BHANU.

20th September 2005.

BCS